



# 20

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

application of:

METZ *et al.*

Appl. No. 08/657,749

Filed: May 30, 1996

For: **Nucleic Acid Sequences Encoding  
a Plant Cytoplasmic Protein  
Involved in Fatty Acyl-CoA  
Metabolism**

Art Unit: 1638

Examiner: Bui

Atty. Docket: 16518.025

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**SEP 06 2001**

**OFFICE OF PETITIONS  
DEPUTY A/C PATENTS**

**Petition for Revival of an Unintentionally Abandoned Patent Application**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

Applicants petition for revival of the above captioned application. Enclosed is check number 200859 in the amount of \$1240.00. A duplicate copy of this petition is enclosed.

On June 23, 1998, a Restriction Requirement was mailed to the Applicant at 1920 Fifth Street, Davis, CA 95616. A shortened statutory period for response was set at one month with extensions permissible.

On October 21, 1998, Applicant mailed by first class mail a postcard (Exhibit A)<sup>1</sup>, a Transmittal Letter and Request for Extension of Time (Exhibit B) and a Response to Requirement for Restriction and Petition Under 37 C.F.R. § 1.143 (Exhibit C). Attached as Exhibit D is a copy of the stamped postcard, which notes that it was received by OIPE on October 26, 1998 and also stamped as received on October 30, 1998.

JOV08/2001 ECF/TERM 00000118 00657740  
02 10 2001 1240.00 CC

<sup>1</sup> The postcard listed a Transmittal Letter and Request for Extension of Time. No Response to Restriction Requirement and Petition Under 37 C.F.R. § 1.143 was listed on the postcard.

The Transmittal Letter and Request for Extension of Time specifically requested a three month extension of time to October 23, 1998 and “**GENERALLY authorized to charge the extension of time, and any additional fee**, with the exception of the issue fee, or credit any overpayment to Deposit Account No. 03-0173.” (Emphasis added) (Exhibit D) As noted above, OIPE acknowledged receipt on October 26, 2001 by stamping the postcard discussed above (Exhibit D). Additionally, because Applicant’s papers were not apparently received until October 26, 1998, Applicants required a four month extension.<sup>2</sup> As noted above, the U.S. Patent and Trademark Office was “**GENERALLY authorized to charge the extension of time, and any additional fee**, with the exception of the issue fee, or credit any overpayment to Deposit Account No. 03-0173.” (Emphasis added) (Exhibit D)

Counsel in the above captioned matter contacted the Examiner to determine the status of the application. Based on this conversation, counsel submitted a Power of Attorney (Exhibit E) and requested a copy of the file history (Exhibit F). A review of the file determined that although the Transmittal Letter and Request for Extension of Time (Exhibit B) was present in the file, no Response to Requirement for Restriction and Petition Under 37 C.F.R. § 1.143 was present. Also, upon review of the file, Applicant’s representatives noted that a Notice of Abandonment was present (mailed on 3/17/99). No such Notice was docketed by Applicant’s representative.

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<sup>2</sup> Applicant notes that the U.S. Patent and Trademark Office stamped Exhibit G with a notation that \$950.00 was withdrawn from applicant’s deposit account. Applicants further note that this is the amount for a three month extension and not a four month extension.

Metz et al.  
Appl. No. 08/657,749

In light of the above, Applicants assert that the entire delay was unintentional and respectfully petition that the application be revived. Furthermore, Applicants respectfully submit the accompanying Response to Restriction Requirement.

If any charges are deemed appropriate, Applicants hereby authorize the U.S. Patent Office to charge any fee to our Deposit Account No. 50-1824 under our reference number 16518.025.

Respectfully submitted,



David R. Marsh (Reg. No. 41,408)  
June E. Cohan (Reg. No. 43,741)

Date: Sept 5, 01

Arnold & Porter  
555 Twelfth Street  
Washington, DC 20004-1206  
(202) 942-5000 telephone  
(202) 942-5999 facsimile

EXHIBIT A



CONFIRMATION OF RECEIPT

USSN 08/657,749

CCNEY

101-2 (1)

Contents:

*Transmittal letter  
Request for extension of time*

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DEPUTY A/C PATENTS

Placed in U.S. First Class Mail/Express Mail  
Label No. \_\_\_\_\_  
By: *[Signature]*  
on \_\_\_\_\_

**EXHIBIT B**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on

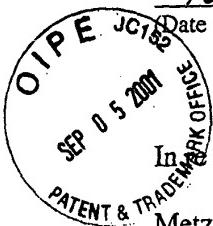
10-24-98

By John G. Grotter

(Date of Deposit)

CGNE-101-2 (1)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**



In the Application of

Metz, J., et al.

Serial No. 08/657,749

Filed: May 30, 1996

For: NUCLEIC ACID SEQUENCES  
ENCODING A PLANT CYTOPLASMIC  
PROTEIN INVOLVED IN FATTY  
ACYL-COA METABOLISM

Examiner: Bui, P.

Art Unit: 1649

**TRANSMITTAL LETTER AND  
REQUEST FOR EXTENSION  
OF TIME**

Honorable Commissioner of  
Patents and Trademarks  
Washington, DC 20231

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SEP 06 2001

OFFICE OF PETITIONS  
DEPUTY A/C PATENTS

Dear Sir:

Enclosed is a response to the outstanding Office Action mailed June 23, 1998, in the above-identified application.

Applicant hereby petitions for a THREE (3) month extension of time in which to respond to the outstanding Office Action in the above-identified application to extend the period of response from July 23, 1998 to October 23, 1998.

The Commissioner is further GENERALLY authorized to charge the extension of time fee, and any additional fee, with the exception of the Issue Fee, or credit any overpayment to Deposit Account No. 03-0173.

Respectfully submitted,

Carl J. Schwedler  
Reg. No. 36,924

CALGENE LLC  
1920 Fifth Street  
Davis, CA 95616  
(530) 753-6313

enclosure: Response

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on 10-21-98. By Elmer L. Johnson  
 (Date of Deposit)



CGNE 101-2 (1)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of )  
 Metz, J., et al. ) Examiner: Bui,P.  
 Serial No. 08/657,749 ) Art Unit: 1648  
 Filed: May 30, 1996 )  
 For: NUCLEIC ACID SEQUENCES )  
 ENCODING A PLANT CYTOPLASMIC )  
 PROTEIN INVOLVED IN FATTY ACYL-) COA METABOLISM )  
RESPONSE TO REQUIREMENT FOR RESTRICTION AND PETITION UNDER 37 C.F.R. § 1.143

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SEP 06 2001

OFFICE OF PETITIONS  
DEPUTY A/C PATENTS

Honorable Commissioner of  
Patents and Trademarks  
Washington, DC 20231

Sir:

In response to the Office Action for restriction mailed June 23, 1998, Applicants provisionally elect to prosecute Group I, comprising Claims 1-13, 17 and 29. A petition to extend the time for response three months, to October 23, 1998, accompanies this communication.

Please cancel Claims 4-16 (claims of Group II) without prejudice. Applicants expressly reserve the right to submit the subject matter of these claims in a related application.

Respectfully submitted,

Carl J. Schwedler  
 Reg. No. 36,924

CALGENE LLC  
 1920 Fifth Street  
 Davis, CA 95616  
 (530) 753-6313

**EXHIBIT D**



FROM : CALGENE LLC

PHONE NO. : 530 792 2463

Aug. 16 2001 12:44PM P2

CGN 101-2 (1)

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OCT 30 1998

CONFIRMATION OF RECEIPT

USSN 08/651,747

Contents

*transmittal letter*

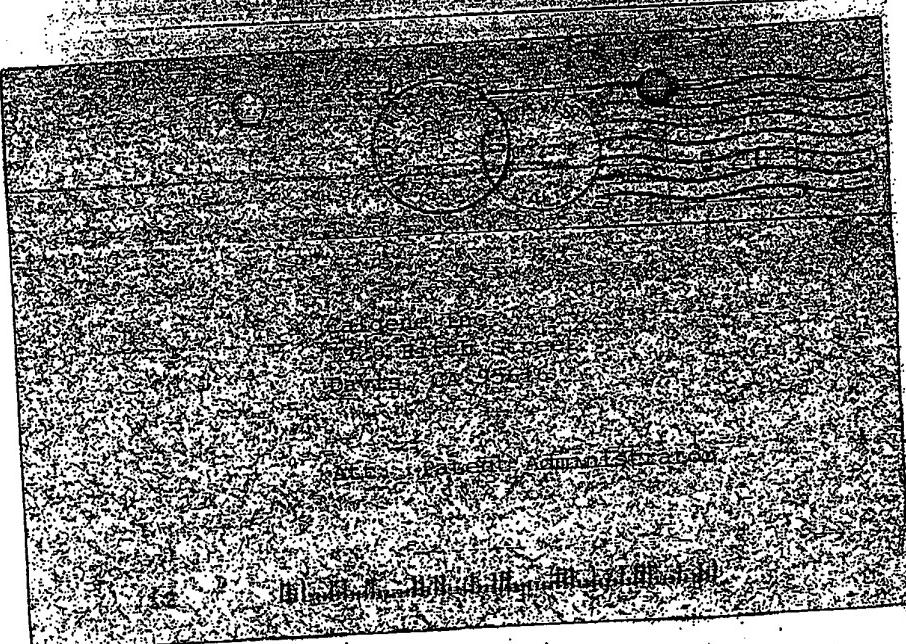
*Request for extension of time*



Placed in U.S. First Class Mail/Express Mail

Label No. 101-2

By [Signature]



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SEP 06 2001

OFFICE OF PETITIONS  
DEPUTY A/C PATENTS

**EXHIBIT E**



Atty Docket No: 16518.025/17201/02/US  
Date: May 22, 2001

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): James G. METZ <i>et al.</i>	Art Unit: 1648
Serial No.: 08/657,749	Examiner: P. Bui
Filing Date: May 30, 1996	
Title: Nucleic Acid Sequences Encoding a Plant Cytoplasmic Protein Involved in Fatty Acyl-CoA Metabolism	

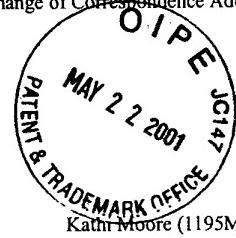
Commissioner for Patents  
Washington, DC 20231

Sir:

Please place the U.S. Patent & Trademark Office receipt stamp hereon to acknowledge receipt of the following:

1. Transmittal letter to the Commissioner for Patents;
2. Revocation of Prior Power of Attorney, Appointment of New Attorneys of Record and Change of Correspondence Address;
3. Copy of Notice of Recordation of Assignment Document (2 pages);
4. Copy of Recordation Form Cover Sheet;
5. Copy of executed Assignment (2 pages); and
6. Return postcard.

Return postcard to: Kath Moore (1195M)



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**SEP 06 2001**

**OFFICE OF PETITIONS  
DEPUTY A/C PATENTS**

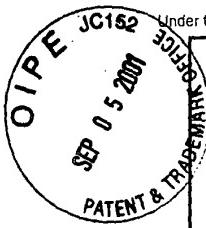
**EXHIBIT F**

PTO/SB/67 (08-00)

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Approved for use through 10/31/2002. OMB 0651-0031

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**POWER TO INSPECT / COPY**Docket Number (Optional)  
16518.025In re Application of  
James G. METZ et al.Application Number  
08/657,749Filed  
May 30, 1996Group Art Unit  
1648Examiner  
P. Bui

Paper No. \_\_\_\_\_

Assistant Commissioner for Patents  
Washington, DC 20231

Please permit the following person(s) to inspect and make copies of the above identified application:

Adrian HartAmy Hunt.**RECEIVED**

SEP 06 2001

OFFICE OF PETITIONS  
DEPUTY A/C PATENTS

I am the:

- Applicant.
- Authorized official of the assignee of record. The assignment was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_, Frame \_\_\_\_,  
or for which a copy thereof is attached.
- Attorney or agent of record Registration No. 43,741.
- Attorney or agent of record Registration No. \_\_\_\_\_ named in the application papers  
filed under 37 CFR 1.53, 1.494, or 1.495 (37 CFR 1.63 or 1.497 oath or declaration not filed).

Signature

June E. Cohan, Reg. No. 43,741

Typed or printed name

May 25 2001

Date

Title (Officer of company or corporate assignee)

FOR PTO USE ONLY

Name of Assignee, if any (e.g., company name)

Approved by: \_\_\_\_\_

(initials)

Unit: \_\_\_\_\_

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.